

**Internal Revenue Service**

**Department of the Treasury**

District  
Director

1100 Commerce St., Dallas, Texas 75242

Date: FEB 17 1994

Person to Contact:

Telephone Number:

Refer Reply To:

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(4) of the Internal Revenue Code (IRC).

The information submitted indicates that you were incorporated on [REDACTED] under the corporation laws of the State of [REDACTED]. Your purposes as set forth in your Articles of Incorporation are as follows:

To implement the Declaration of Covenants and Restrictions of [REDACTED] dated [REDACTED] and recorded in [REDACTED] County Deed Records, Volume [REDACTED], Pages [REDACTED] through [REDACTED], as such exists and may be modified or changed in the future and to provide for the maintenance of the private streets known as [REDACTED] in the City of [REDACTED] and [REDACTED] in the City of [REDACTED], which shall continue to have access by the general public.

Your organization is composed of the owners of industrial lots in a business subdivision that has [REDACTED] warehouse buildings. The primary activity of your organization is to maintain the [REDACTED] private streets in your industrial park

There are no residential homeowners in your industrial park or in the surrounding area. In fact, the entire section of the [REDACTED] cities in which you are located is for commercial and industrial use only.

The support for your organization comes entirely from membership dues charged to the lot owners.

Section 501(c)(4) of the Internal Revenue Code provides exemption for:

"Civic Leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare..."

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that:

"An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterment and social improvements."

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes."

Section 1.501(c)(4)-1 of the regulations provides, in part, as follows:

"(a)(1) In general. A civic league or organization may be exempt as an organization described in section 501(c)(4) if -

(i) It is not organized or operated for profit; and

(ii) It is operated exclusively for the promotion of social welfare."

Revenue Ruling 74-17, C.B. 1974-1, 131 states that a condominium housing project established to provide for the management, maintenance, and care of the common areas of the project, as defined by State statute, with membership assessments paid by the unit owners does not qualify for exemption under IRC section 501(c)(4).

Revenue Ruling 72-102, C.B. 1972-1, 149 states that a nonprofit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks and common areas for the use of the residents is exempt under section 501(c)(4).

Revenue Ruling 74-99, C.B. 1974-1, 131 states a homeowners association, preserving appearance and maintaining common areas...must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental.

Revenue Ruling 74-17 refers to a condominium owners association. Even so, your organization is operated in substantially the same manner. Basic condominium ownership necessarily involves common ownership of all condominium property in the development, the care and maintenance of which would constitute the provision of private benefit to the owners to a degree that would disqualify it from exemption under section 501(c)(4).

The concept of social welfare implies a service or program directed at benefiting the community rather than a private group of individuals. Like the organization described in Revenue Ruling 74-17, you are providing services to your members that they would otherwise have to provide for themselves. You are a private cooperative enterprise that is established for the economic benefit and convenience of your members. Any benefits to the community are not sufficient to meet the requirements of the regulation that you will be operated primarily for the common good and general welfare of the people of the community.

Both Revenue ruling 7-102 and Revenue Ruling 74-99 address the definition of "community". for the purposes of section 501(c)(4) of the Code, a neighborhood, precinct, subdivision or housing development may constitute a community, as defined in Revenue ruling 72-102. Revenue Ruling 74-99 specifically addressed and attempted to clarify the definition of "community" that was contained in Revenue Ruling 7-102. It states that a "community" within the meaning of IRC section 501(c)(4), is merely "an aggregation of home owners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein." Although it was stated that an exact delineation of the boundaries of a "community", within the scope of IRC section 501(c)(4), was not possible, it was noted that the term as used in this section, "has traditionally been construed as having a reference to a geographical unit bearing a reasonable recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof."

The primary concept that is very evident in both Revenue Ruling 72-102 and Revenue Ruling 74-99, when they discuss the definition of community, are the references to homeowners associations and residential housing developments. They are referring to the individuals and families that own or rent, and live in the homes that comprise this part of the community, as their permanent residents.

Your organization does not contain any residential homes of any type. Your organization is composed of industrial lots in a business subdivision that is zoned for only commercial and industrial development. Therefore, we conclude that you do not meet the requirements for exemption under section 501(c)(4) of the Code.

-4-

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[REDACTED]  
[REDACTED]

District Director

Enclosures:  
Publication 892  
Form 6018